



ACSTA

Alberta Catholic School Trustees' Association

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Submission to the Minister of Education's School Act Review Process, 2009

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General Statement

Alberta boasts an excellent publicly-funded educational system, in which Catholic schools are a strong partner. The Alberta Catholic School Trustees' Association (ACSTA) is proud to be part of a publicly-funded school system that honours and recognizes the value of providing Alberta students with the choice to attend a school that is permeated with the Catholic faith. Furthermore, ACSTA is confident in the Alberta Government's dedication to continue to provide this choice in education. This commitment is stated most strongly in the preamble to the existing *School Act*:

The Government of Alberta affirms its commitment to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools.

It is upon this foundation of choice and commitment to publicly-funded Catholic education, that the ACSTA believes the government will continue to build.

Alberta's Catholic schools must continue to be governed by locally-elected Catholic school boards. They are a vital link between the community and government and provide an essential Catholic oversight of the school division or district.

It cannot be denied that Alberta's Catholic schools are a crucial partner in the success of Alberta's education system. We know that this system of choice is one of the factors that contributes to the excellence of Alberta's education system and its international recognition. Therefore, ACSTA is pleased to work with Alberta Education and the Alberta Government to maintain choice in Alberta's publicly-funded education system.

Education is constantly changing, now more than ever. The Alberta education system is known for both its creativity and innovation. Based on strong foundational roots established in the existing *School Act*, Alberta has adapted its education system to address changes and to better suit the students of Alberta. ACSTA recognizes that our education system must continue to evolve and is excited to be part of these changes in order to ensure that we continue to provide leading publicly-funded Catholic education in Alberta.

On that note, ACSTA unequivocally supports maintaining and further defining publicly-funded Catholic education. We are confident that the strong foundation of choice for publicly-funded Catholic education will be maintained during the current review of the *School Act*.

Key Messages

- ACSTA, on behalf of Catholic school boards, welcomes the Minister's invitation to participate in this *School Act* review.
- Catholic separate and Catholic public schools are an integral part of the success of publicly-funded Catholic education in Alberta.
- ACSTA will work with the Government to uphold the strong provisions for Catholic schools already in the *School Act*:

WHEREAS there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools, in such a way that the rights guaranteed under the Constitution of Canada of separate school electors are preserved and maintained;

AND

WHEREAS the Government of Alberta affirms its commitment to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools.

- Alberta's Catholic schools must continue to be governed by locally-elected Catholic school boards
- Catholic separate and Catholic public schools are fiscally responsible
- Catholic separate and Catholic public schools provide many great Alberta leaders and community volunteers and participants
- Catholic separate and Catholic public schools win MERLA awards
- Catholic separate and Catholic public schools are innovative, provide choice, provide progressive programming (including Aboriginal programming, technology programming), and embrace diversity

Key Messages

→ ACSTA is excited to work with the Minister to review the *School Act* in preparation for what an educated Albertan will look like 20 years from now, especially taking into account the Minister's focus on opportunity, fairness, citizenship, diversity, and choice.

→ **OPPORTUNITY:**

→ ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of providing opportunity for all students, including students of the Catholic faith, to achieve their highest potential will be recognized.

→ **FAIRNESS:**

→ ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of advancing programs for students of all abilities will continue to grow and be a renowned part of Alberta's education system.

→ **CITIZENSHIP:**

→ ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of preparing students to be effective citizens is enhanced because of the work of Catholic schools in preparing students that are both creative and globally-aware citizens, striving to be the leaders of tomorrow; locally, provincially, nationally, and globally.

→ **DIVERSITY:**

→ ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of diversity is explicitly promoted and encouraged, thus creating a place for all students in Alberta.

→ **CHOICE:**

→ ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of choice will continue to define and be a major contributing factor of success for Alberta's education system.

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Currently the *School Act* provides a strong position for Catholic schools in its preamble:

... there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools...

In addition, the preamble to the *School Act* also states the Government of Alberta's unequivocal commitment:

...to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools.

The Alberta Catholic School Trustees' Association (ACSTA) recognizes that this strong tradition must be maintained in any review of the existing *School Act*.

As part of the process leading up to the review of the *School Act*, the Alberta Government has been engaged in an *Inspiring Education* dialogue. Through this process, they have identified five foundational themes (opportunity, fairness, citizenship, diversity, and choice) as having overarching relevance for education (and its review) in the province. ACSTA has explored these themes in relation to Catholic education and is certain that Alberta's Catholic schools have embraced (and are continuing to embrace) these themes in innovative and creative ways.

Opportunity – the availability of opportunity for all students to achieve their highest potential

Alberta's publicly-funded education system includes Catholic schools which allow students to receive high quality education permeated by the Catholic faith. Students in our Catholic schools are achieving extremely high standards of excellence in academics, athletics, the arts, and in other specialized programs. This has been demonstrated in the high profile of Catholic schools as yearly award winners in the Minister's Education Leadership Recognition Awards, as well as in increasing enrolments in our Catholic schools. Alberta's parents and students are continually recognizing that success is occurring in Catholic schools and they wish to be a part of it. In addition, the Catholic faith is permeated throughout our schools through integration of Gospel teachings and sacramental life. Students are holistically achieving their full potential in Alberta's Catholic schools.

ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of providing opportunity for all students, including students of the Catholic faith, to achieve their highest potential will be recognized.

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Fairness – equity of opportunity recognizing that advantages and disadvantages vary widely amongst Alberta’s students

The value and understanding of fairness is a key component not only of the Catholic faith, but also of Alberta’s Catholic schools. Our Catholic schools demonstrate a great sensitivity and accountability to the abilities of each of our students. One of the successes of our schools has been the creation of specialized programs which serve students of all abilities. Many of these programs have achieved recognition. For example, Edmonton Catholic Schools STEPPS program (Supportive Transitions for Emotional, Physical, Psychological and Spiritual) supports elementary aged students who face challenges in their emotional development after being discharged from mental health treatment programs. This is a partnership program with Alberta Health and has received extensive recognition in the province and nationally through publication of the program in the Canadian Association of School Administrators publication Leaders and Learners.

At the Calgary Catholic School District, St. Anne’s Academic Centre offers high school students who have completed three years of high school at their community school the opportunity to return and complete their Grade 12 education and receive their diploma. Some of the programs that help contribute to Calgary Catholic’s higher than provincial average high school completion rates are Sanctuary Program, Fresh Start, U-Learn Virtual Program, RADAR and self-directed study courses.

Finally programs are also occurring in our smaller rural districts. For instance, Lakeland Catholic School District has implemented a technology project for Grade 9 students called “MindsON through 1:1 Technology.” This project focuses on the acquisition of 21st Century skills with an emphasis on student development of critical thinking, problem solving skills and developing self-directed learners within a diverse learning community.

ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of advancing programs for students of all abilities will continue to grow and be a renowned part of Alberta’s education system.

Citizenship –preparing students for full active participation in the economy, society, and democracy at the level of their local communities, the province, the country, and the world

Many of Alberta’s leaders have been educated in Catholic schools. Students in our Catholic schools are being continually challenged to engage critically with the world. Our

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Catholic teachers and administration know the importance of fostering knowledge that is creative and adaptive; our Catholic students are being educated to become global citizens able to compete successfully in a knowledge-based economy. The permeation of faith in our schools adds an extra and holistic component to this equation.

In a presentation given in Ottawa at the 2008 Canadian Catholic School Trustees' Association's (CCSTA) *Catholic Education: A National Conversation*, Bishop Paul-André Durocher spoke to the value of having Catholic schools as part of a publicly-funded education system. In particular, he addressed the creation of critical thinkers in Catholic schools and the extra dimension that faith adds, saying that the very essence of a faith-based school system gives students the notion of freedom of thought. He argues that the combination of faith and reason together is crucial for creating globally-aware and astute students who will succeed in the ever-changing global community.

ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of preparing students to be effective citizens is enhanced because of the work of Catholic schools in preparing students that are both creative and globally-aware citizens, striving to be the leaders of tomorrow; locally, provincially, nationally, and globally.

Diversity – recognizes the diversity in learning styles and needs within the student population, the breadth of diversity in the province, and the strengths that diversity provides to our society

Alberta's Catholic schools are places of great diversity. In our schools we foster and encourage a student population that demonstrates diversity of background, diversity of abilities, etc. This is a diversity that is both encouraged and supported. Furthermore, it is a diversity that is legislatively recognized in both the *School Act* and the *Canadian Charter of Rights and Freedoms*.

In his presentation to CCSTA, mentioned above, Bishop Durocher noted that the foundation of Canadian society is diversity, and that this diversity is mirrored in Catholic schools in Canada. This is a foundation that must be fostered in our publicly-funded education system.

ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of diversity is explicitly promoted and encouraged, thus creating a place for all students in Alberta.

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Choice – recognizes that citizens expect more than a “one-size fits all” approach to the delivery of public services

Alberta’s publicly-funded education system recognizes the need for choice. It provides students with opportunities to choose an education program that fits their academic and faith needs. This choice-based system is legislatively recognized in both the *School Act* and the *Canadian Charter of Rights and Freedoms*.

Having both publicly-funded Catholic and Public education systems in the province is inherently good for education. In a study, *Ontario’s Best Public Schools, 2005/06 – 2007/08: An Update to Signposts of Success (2005)*, produced by the C.D. Howe Institute, they note the high success of Catholic schools where there is a choice between public and Catholic school systems.¹ Having choice in a publicly-funded education system makes all elements of the system better, as each component works to create adaptive and innovative ways to provide the best education possible to students.

ACSTA believes that in maintaining strong legislative recognition for Catholic schools the goal of choice will continue to define and be a major contributing factor of success for Alberta’s education system.

¹ Johnson, David. *Ontario’s Best Public Schools, 2005/06 – 2007/08: An Update to Signposts of Success (2005)*. C.D. Howe Institute (ebrief, 2009). http://www.cdhowe.org/pdf/ebrief_85.pdf

ACSTA School Act Brief

This synopsis details the provisions in the *School Act* recommended to be retained, the provisions recommended to be removed, and the provisions recommended to be amended.

Provisions to be retained

1. Two of the strongest statements on Catholic education occur in the **Preamble** to the *School Act*, where it is stated:

WHEREAS there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools, in such a way that the rights guaranteed under the Constitution of Canada of separate school electors are preserved and maintained;

AND

WHEREAS the Government of Alberta affirms its commitment to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools.

The ACSTA believes that both of these provisions should be retained in any revision to the *School Act*.

2. **Section 1(1)(ee)** defines a “separate school district.”

3. **Sections 32(c) and 34(4)** discuss Charter schools.

4. **Section 44(4)** discusses residency stating that “where a separate school district is established, a person of the same faith as those who established the separate school district is a resident of the separate school district.” **Section 220(6)** repeats this provision.

5. **Section 44(5)** entitles the Director under the *Child, Youth, and Family Enhancement Act* to deem a student to be a resident student of a board that represents the faith of the student, if the student is in the care of a foster parent, the faith of the student differs from the faith of the foster parent and there is a separate school district or division in the area in which the foster parent resides.

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6. **Section 45(3)** provides that a board shall enroll a resident student of the board or of another board in the school operated by the board that is requested by the parent of the student if, “in the opinion of the board ... there are sufficient resources and facilities available to accommodate the student.”

7. **Section 50(1)** allows for a board to provide religious education and allows that this can be provided by persons other than teachers.

8. **Section 59** provides that the board of a separate school district possesses all of the rights, powers, privileges, duties, liabilities and has the same method of government as the board of a public school district.

9. **Sections 154(1), 154(3), 155, 156, 160, 161, and 164(1)(a) and (2)** all discuss assessment. They allow separate schools to have a taxation base; they preserve the right for a separate school board to go to ratepayers for taxes, and to have an identification of who ratepayers are.

10. **Part 6, Division 4: Alberta School Foundation Fund, Sections 170 through 178** are critical to preserve. These sections allow equity of funding between separate and public school boards.

11. **Part 8, Division 2: Establishment and Dissolution of Separate School Districts, Sections 212 to 220** establish the rights to form a school district using the 4x4 process. These are essential provisions to be retained.

12. **Sections 246(2) and (4)** provide for a separate school district or a regional division to be represented by a board and the members of that board are a corporation.

13. **Part 9, Establishment and Dissolution of Francophone Education Regions, Sections 252.1 to 257** these sections adequately protect the double constitutional right of Francophone Catholic boards (minority language rights and minority religion rights).

Provisions to be removed

1. **Section 44(3)** says that every individual is a resident of a public school district or division. This section is not needed if different categories of residency are created. Subsection 44(1) in combination with subsections 44(4) and 220(6) clearly indicate the district or division in which the individual or student is a resident.
2. **Section 50(2)** entitles a parent of a student to allow the student to be excluded from religious instruction or exercises by having that student leave the classroom, or remain in the classroom without taking part in the religious instruction or exercises. This provision should not apply to Catholic separate or Catholic public schools. The essential purpose of Catholic schools is to fully permeate Catholic theology, philosophy, practices and beliefs, the principles of the Gospel and teachings of the Catholic church in all aspects of school life, and all resident students should be required to participate fully in religious instruction or exercises in a Catholic school. Please also reference the special note at the end of this document on section 11.1 of the *Alberta Human Rights Act* (Bill 44).
3. **Section 221.3** is located within Division 2.1: Establishment of Separate School Regions, which are the expansion of separate school district provisions. However, section 221.3 references “the establishment of a new separate school district in a Region”, which is a reference to the 4 x 4 formation provisions in sections 212 through 221. Secondly, the discussion of the establishment of a new separate school district in a Region is contrary to section 221.2(3) which allows for only one separate school board in a region.
4. **Section 225** is the “compulsory regionalization” provision which is clearly unconstitutional with respect to separate school districts or regional divisions and should be deleted.

Provisions to be amended or added

1. **Section 21(1)** defines an “alternative program” as an education program that emphasizes, amongst other things, a particular religion, but is not “a program of religious education offered by a separate school board.” This exception to the definition of alternative program should be maintained, but the exception should also include “or a Catholic public board”.
2. **Section 22(3)** provides that a school council within a separate school district or division may be required to be made up of members “of the same faith as those who established the separate school districts”. This provision should be expanded to include “or a Catholic public school district”.
3. **Section 39(1)(e)** provides that the Minister may “subject to the right of a board to provide religious instruction” prohibit the use of any course, education program or instructional material in schools. This section should be amended to specifically identify “the right of a separate school district or division, or a Catholic public school district to provide religious instruction”.
4. **Section 152.1** provides that in Part 6, Finance: Division 2, Assessment of Property; reference to a separate school district includes a regional division made up of only separate school districts, “except in subsection 161(3)”. Subsection 161(3) discusses equalized assessment where a “separate school district lies in whole or in part within a municipality”. There is no rationale for why the equalized assessment rule would be different for a separate school district as opposed to a separate school regional division. Separate school regional divisions would always lie “in whole or in part within a municipality”. In addition, the exception in this subsection is contrary to the exception already existent in subsection 161(4)(b). The exception in this section should be deleted.
5. **Section 154** provides that where a separate school district exists, the faith of the individual determines assessability for separate school purposes and where a property is held by two or more individuals as joint tenants or tenants in common, the assessment is determined to be in proportion to the individual’s interest in the property. Before the 1995 amendments to the *Act* there was a further subsection (Section 133 of the *School Act*, S.A. 1988, c.S-3.1) that addressed interfaith and interdenominational marriages, allowing the married couple to designate their property to be held as “a unit” for either public or separate school district assessment. That provision is in keeping with the unity of marriage and gives ability to persons in an interfaith or interdenominational marriage to act as a family unit. That provision should be re-introduced into the *Act*.

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6. **Section 157** sets out how a corporation, cooperative or cooperative association may determine its assessment. This procedure is cumbersome, relies upon the corporations, cooperatives or cooperative associations to make an appropriate designation, and results in an under-assessment for separate school purposes. While the practical effect of such under-designation is alleviated by the “top-up” provisions of subsection 176(4), amendments could be made to this section 157 to alleviate the under-assessment for separate school purposes by requiring the corporation, cooperative or cooperative association designation on a pro-rata basis determined by the ratio of separate school supporters or students to public school supporters or students in the district or division.

7. **Section 166** requires that each municipality send to each board a breakdown of all property assessed as between individuals and corporations. An appropriate amendment would be to add “cooperatives or cooperative associations” after “corporations” in subsection (b).

8. Sections **208 to 211** provide for public school districts to become combined into “school divisions”. It is not possible for separate school districts to become combined into school divisions. The difficulty with this exclusion is that, while public school districts are entitled to reorganize their wards and electoral subdivisions, or to dissolve and reform from time to time with different boundaries, separate school boards are not entitled to do so and are limited by the far more restrictive provisions relating to regional divisions; sections 222 to 237. Separate school districts should be added to these sections 208 through 211, which should only have effect subject to the agreement, approval and consent of the separate school electors and separate school boards consistent with their rights and privileges preserved under section 17(1) of the *Alberta Act, 1905*. It is essential in effecting this amendment that the Minister not be given full authority to alter the boundaries, wards, electoral subdivisions or structure of separate school districts or regional divisions without the agreement, approval, and consent of the separate school electors and boards.

9. **Section 217(1): Sections 212 through 220** of the *Act* are the traditional 4 x 4 provisions for formation of separate school districts. One section however, is not mandated by the 1901 Ordinances the establishment meeting of 25% set in section 217(1). An amendment would be appropriate to reduce that quorum, especially with respect to formation based upon rolled-up 4 x 4s.

10. **Section 221(1)(a)** allows the board of a separate school district to pass a resolution requesting the Minister to dissolve the district. Subsection 221(1)(b) allows the board of “its own volition” or upon petition of 25% of the separate school electors to conduct a plebiscite to determine whether the separate school district should be dissolved. The board of the separate school district should not be entitled to simply request that the Minister dissolve the district without a plebiscite. Subsections 221(1)(a) and (5)(b) should be deleted.

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11. **Section 221.2** allows for the establishment of a Separate School Region and for the provision of services by a separate school board in the Region, and is the legislative authority for the “separate school expansion provisions” of the *Separate School Regions Establishment and Provision of Services Order*, A.R. 109/2002. This is the section which is contested in the *Aspen View R.D. No. 19* and *Kuryliw v. Alberta litigation*, Queen’s Bench Action Nos. 0403 21814 and 0803 04747. This opportunity should be taken to review section 221.2 so as to address the objections raised in this litigation. Litigation lawyers at Alberta Justice, Civil Litigation Services, David Kinlock and Tim Hurlburt, and from Alberta Justice, Constitutional and Aboriginal Law, Don Padget, should be asked to prepare a comprehensive re-draft of this section so as to overcome all of the objections raised in the Aspen View R.D. No. 19 litigation. ACSTA, as a Defendant-by-Order could be of significant assistance in comprehensively revising this section.

12. **Section 226** provides that when separate school districts have entered into a regionalization agreement pursuant to section 224, the original districts, divisions, or other original areas become wards in the new regional division. This section must be amended to allow for reorganization of wards in a regional division, including elimination of a ward, to achieve proportionality between wards both with respect to number of trustees and population of the ward, with the agreement, approval and consent of the separate school electors and board.

13. **Section 237** allows boards within a regional division consisting of public school divisions, public school districts or old County boards to request that the Minister convert the regional division to a school division. Once again this provision should be amended to allow separate school regional divisions to make the same request, subject to the agreement, approval, and consent of the separate school electors and board.

14. **Section 239** of the *Act* is not explicit in allowing the Minister to expand the area of a separate school district or division pursuant to section 221.2. This section should be amended to make that authority explicit. In addition, in this section or in a new section to be added, the Minister should be given the explicit right to amalgamate a Catholic separate school district or division with a Catholic public school district or division.

15. **Section 240** allows dissolution of a district or division by the Minister on Ministerial Order. This section must be made subject to the agreement, approval and consent of separate school electors and separate school boards when applicable to separate school districts or divisions.

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Special Note: The Human Rights Act (Bill 44)

Bill 44, The Human Rights, Citizenship and Multiculturalism Amendment Act, 2009 was given Royal Assent on June 2, 2009. The resulting act, The Alberta Human Rights Act, provides in section 11.1 for parental choice whenever courses of study, educational programs, instructional materials, instructions or exercises, teaching a course of study or educational program, or using educational materials “deals primarily and explicitly with religion ...”. A further subsection should be added to this section as follows:

“(4) The above provisions with respect to parental choice as it affects religion, and the provisions of section 50(2) of the *School Act* as it affects religious instruction and exercises, do not apply to the teaching of Catholic doctrine in Catholic public or separate schools. It is expected that students attending a Catholic public or separate school, will receive a wholly-permeated Catholic education based upon Catholic doctrine, philosophy and theology.”



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